

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
October 12, 2005

ITEM: 8

SUBJECT: **Public Hearing: Proposed Amendment to the *Water Quality Control Plan for the San Diego Basin (9)* to Incorporate Authorization for Compliance Time Schedules in National Pollutant Discharge Elimination System Requirements (Basin Plan Issue No. 6) (Tentative Resolution No. R9-2005-0238).** (*Linda Pardy*).

PURPOSE: The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) will hear public testimony and receive comments on a Tentative Resolution to amend the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan) to incorporate authorization for compliance time schedules in Waste Discharge Requirements that implement federal NPDES regulations. Deliberation and adoption of Tentative Resolution No. R9-2005-0238 is planned for a subsequent public meeting.

PUBLIC NOTICE: Federal Clean Water Act regulations [40 CFR 25.5] require the San Diego Water Board to provide notice of a proposed Basin Plan amendment to all interested parties at least 45 days in advance of the public hearing. The State Water Resources Control Board's California Environmental Quality Act (CEQA) implementation regulations [23 CCR 3777] require the San Diego Water Board to provide to the public a Notice of Filing of a written report on any standard, rule, regulation, or plan proposed for approval or adoption at least 45 days prior to Board action.

The Notice of Public Hearing for this Basin Plan amendment and Notice of Filing of the written technical report (Supporting Document 1) were provided by newspaper publication in the Orange County Register, the San Diego Union Tribune, and the Riverside Press-Enterprise; and by email and regular mail distribution to interested persons on August 29, 2005, 45 days in advance of the public hearing scheduled for October 12, 2005. The Draft Technical Report and appendices (Supporting Document 2), including Tentative Resolution No. R9-2005-0238 and the Basin Plan amendment have been available for public review on the San Diego Water Board website and at the San Diego

Water Board office since August 29, 2005.

DISCUSSION:

This proposed Basin Plan amendment authorizes the San Diego Water Board to incorporate compliance time schedules in Waste Discharge Requirements that implement National Pollutant Discharge Elimination System regulations and federal Clean Water Act requirements (NPDES requirements). This amendment is needed as a consequence of the *Star-Kist Caribe* decision, an administrative decision issued by the United States Environmental Protection Agency (USEPA), which stipulated, in part, that compliance time schedules can be included in NPDES permits only if there is explicit authorization in the states' water quality control plans. The San Diego Water Board's Basin Plan does not currently contain an explicit compliance time schedule authorization.

The amendment will expand the regulatory options available to the San Diego Water Board to address situations where immediate compliance with new or more stringent water quality based effluent limitations (WQBELs) and receiving water limitations is not feasible. Without this amendment, the San Diego Water Board may issue a compliance time schedule only as part of an enforcement order.

The amendment limits the incorporation of compliance time schedules in NPDES requirements to the following situations. Immediate compliance with new or more stringent WQBELs and receiving water limitations (as described above) is not feasible because new or modified control measures (e.g., wastewater treatment facilities) are necessary to comply with the WQBEL or receiving water limitation and additional time is needed to design, install, and put into operation the new or modified control measures. The new or more stringent WQBELs or receiving water limitations are derived from water quality objectives issued, revised, or newly interpreted after November 9, 2005, the planned adoption date of the amendment. The new or more stringent WQBELs result from new information on the characteristics and effects of a discharge, regardless of the date of issuance, revision, or interpretation of the water quality objective implemented by the WQBEL.

The compliance time schedules must be as short as practicable and cannot exceed five years in length. The San Diego Water Board may grant an additional extension of up to five years, but only where the discharger has demonstrated satisfactory progress toward achieving compliance with the applicable WQBELs and receiving water limitations. When a compliance time schedule is proposed for incorporation in NPDES requirements, the discharger must achieve

compliance with WQBELs and receiving water limitations in the shortest practicable time period, meet specified interim effluent and receiving water limitations, and not increase pollutant levels in the discharge (no backsliding).

KEY ISSUES:

1. This Basin Plan amendment is not controversial. The amendment provides the authorization, required by the *Starkist-Caribe* decision of the USEPA, for inclusion of compliance time schedules in NPDES requirements.

LEGAL CONCERNS:

None.

SUPPORTING
DOCUMENTS:

1. Notice of Public Hearing and Filing, dated August 24, 2005 and published August 29, 2005.
2. Draft Technical Report entitled 'Proposed Amendment to the *Water Quality Control Plan for the San Diego Basin (9)* to Incorporate Authorization for Compliance Time Schedules in National Pollutant Discharge Elimination System Requirements' dated August 29, 2005.
Appendix 1. Tentative Resolution No. R9-2005-0238 and Attachment A, Basin Plan Amendment.
Appendix 2. Environmental Checklist Form.

RECOMMENDATION:

Close the public comment period for this item and consider adoption of Tentative Resolution No. R9-2005-0238 at a subsequent public meeting.